

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Janel Ridley	Team: Squad #4	CCRB Case #: 201810512	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 12/19/2018 5:55 AM	Location of Incident: § 87(2)(b)	Precinct: 23	18 Mo. SOL 6/19/2020	EO SOL 2/3/2021	
Date/Time CV Reported Wed, 12/19/2018 9:44 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 12/19/2018 9:44 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			Unknown
2. DT3 John Mcfarland	1436	950860	GVSD Z2

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Walter Warkenthien	3560	953559	023 DET
2. DT3 Michael Tansey	3902	949714	WARRSEC
3. DT3 Rafael Munoz	05948	899645	023 DET
4. POM John Roufanis	15926	953343	WARRSEC
5. POM Brendan Bradley	02094	950100	WARRSEC

Officer(s)	Allegation	Investigator Recommendation
A.DT3 John Mcfarland	Abuse: Detective John Mcfarland entered § 87(2)(b) in Manhattan.	
B.DT3 John Mcfarland	Abuse: Detective John McFarland searched § 87(2)(b) in Manhattan.	
C.DT3 John Mcfarland	Abuse: Detective John McFarland refused to provide his name to § 87(2)(b)	
D.DT3 John Mcfarland	Abuse: Detective John McFarland refused to show the search warrant to § 87(2)(b)	
E.DT3 John Mcfarland	Abuse: Detective John McFarland refused to show the search warrant to § 87(2)(b)	
F. Officers	Abuse: Officers damaged § 87(2)(b)'s property.	
G. Officers	Abuse: Officers damaged § 87(2)(b) property.	

### Case Summary

On December 19, 2018, § 87(2)(b) called the CCRB and filed the following complaint.

On December 19, 2018, at approximately 5:55 a.m., Detective John McFarland and additional officers of the Gun Violence Suppression Division entered and searched § 87(2)(b) in Manhattan (**Allegations A and B: Abuse of Authority, § 87(2)(g)**) during the execution of a valid no-knock search warrant. § 87(2)(b) asked Detective McFarland to provide his name and he allegedly did not provide it (**Allegation C: Abuse of Authority, § 87(2)(g)**). § 87(2)(b) and § 87(2)(b) requested to see the search warrant and one was not provided (**Allegation D: Abuse of Authority, § 87(2)(g)**). Detective John McFarland refused to show the search warrant to § 87(2)(b) (**Allegation E: Abuse of Authority, § 87(2)(g)**). Unidentified officers allegedly damaged § 87(2)(b)'s television and § 87(2)(b) dresser drawers during the search (**Allegation F and Allegation G: Abuse of Authority, § 87(2)(g)**). § 87(2)(b) was arrested for § 87(2)(b). No other arrests or summonses were issued.

There is no video footage capturing the incident.

### Findings and Recommendations

**Allegation A- Abuse of Authority: Detective John McFarland entered § 87(2)(b) in Manhattan.**

**Allegation B- Abuse of Authority: Detective John McFarland searched § 87(2)(b) in Manhattan.**

It is undisputed that officers entered and searched § 87(2)(b) in Manhattan on December 19, 2018. It is undisputed that the front door was damaged in the process and that officers entered the apartment with their guns drawn and pointed. It remains in dispute whether an officer used profanity upon entering the apartment.

§ 87(2)(b) testified (Board Review 2) that an officer said, “Get the fuck on the floor” upon entry to the apartment.

§ 87(2)(b) provided a phone statement to the investigation and stated that she did not hear any officer make this statement (Board Review 9).

Detective McFarland testified (Board Review 3) that he did not say, “Get the fuck on the floor” and he did not hear anyone else say it or speak discourteously to the habitants of the apartment.

New York County no-knock search warrant no. § 87(2)(b) was signed by the Honorable § 87(2)(b) on § 87(2)(b). The search warrant was obtained by Det. McFarland in regard to a non-fatal shooting. The search warrant authorized officers to enter and search § 87(2)(b) in Manhattan (Board Review 1).

Patrol Guide Procedure 221-17 (Board Review 4) states that a search warrant must be executed within ten days of issuance.

§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)

**Allegation C- Abuse of Authority: Detective John McFarland refused to provide his name to § 87(2)(b)**

§ 87(2)(b) stated (Board Review 12) that Detective McFarland did not provide his name to her upon request when he was walking her from her bedroom into the living room.

§ 87(2)(b) provided a phone statement to the investigation and stated (Board Review 9) that no one in the apartment asked Detective McFarland for his name.

Detective McFarland testified (Board Review 11) that he did not recall § 87(2)(b) asking him to provide his name. Detective McFarland added that he always introduces himself and informs people of his purpose at the scene when he executes a search warrant.

§ 87(2)(g)

**Allegation D- Abuse of Authority: Detective John McFarland refused to show the search warrant to § 87(2)(b)**

**Allegation E- Abuse of Authority: Detective John McFarland refused to show the search warrant to § 87(2)(b)**

§ 87(2)(b) testified (Board Review 2), that she requested to see the warrant at two different points of the incident. § 87(2)(b) first requested it aloud when police officers entered the apartment and started going through the rooms. A warrant was not provided at this time. § 87(2)(b) made a second request aloud when she observed a coat belonging to her son, § 87(2)(b) being taken out of the apartment by an officer. An officer replied, “If you want to see a warrant, you have to go to the 23<sup>rd</sup> Precinct.”

§ 87(2)(b) provided a phone statement to the investigation and stated (Board Review 9) that she and § 87(2)(b) asked aloud to see a warrant and that Detective McFarland stated he was going to get them one, but that one was not provided. § 87(2)(b) was subsequently uncooperative with the investigation.

Detective McFarland testified (Board Review 3 and 11) that he was responsible for presenting the warrant and did not do so because the warrant contained sensitive information such as the names of suspects in a previous shooting and the specific items they were looking for during the search. Detective McFarland explained that refusing to show someone a warrant with sensitive information is standard protocol when an active investigation has ensued. When asked to cite the procedure, Detective McFarland stated, “It is in the Patrol Guide.” Detective McFarland articulated that it says, “Show a copy of the warrant, absent exigent circumstances.” Detective McFarland further stated that he believed this was an exigent circumstance. Detective McFarland stated that there was no other documentation he could have shown § 87(2)(b) to inform her that they had a valid search warrant. When presented with and asked if he could have shown the search warrant application instead, Detective McFarland responded, “That includes way more information than the order. Neither were permissible to be shown.”

The cover sheet of the search warrant application (Board Review 1) details the following: “Supreme Court of the State of New York County of New York. In the matter of an application

for a warrant to search [§ 87(2)(b)] New York, New York (The Target Location)”

Patrol Guide Procedure 221-17 (Board Review 4) states that a copy of the search warrant must be shown, upon request, safety permitting. Criminal Procedure Law § 690.50 (Board Review 5) states that when executing a search warrant on a premise, a police officer must give, or make reasonable effort to give, notice of his authority and purpose to an occupant thereof before entry and show her the warrant or a copy thereof upon request.

It is undisputed that a request to see a copy of the search warrant was made and that the request was not fulfilled. § 87(2)(g)

[§ 87(2)(g)]

§ 87(2)(g)

[§ 87(2)(g)]

**Allegation F- Abuse of Authority: Officers damaged § 87(2)(b)'s property.**

**Allegation G- Abuse of Authority: Officers damaged § 87(2)(b)'s property.**

§ 87(2)(b) alleged (Board Review 2) that her dresser drawers and § 87(2)(b)'s television were damaged during the execution of the search warrant. § 87(2)(b) did not witness which officer allegedly damaged the property and noticed it after they left her apartment.

A statement from § 87(2)(b) was not obtained because he was advised by his attorney not provide a statement to the CCRB.

§ 87(2)(b) Folk provided a phone statement to the investigation and denied damage to any property beyond the apartment door (Board Review 9).

Detective McFarland testified (Board Review 3) that only the apartment door was damaged during the search warrant execution.

§ 87(2)(g)

**Civilian and Officer CCRB Histories**

- § 87(2)(b) has been the party to one prior CCRB complaint and has been named as a witness in the complaint (Board Review 6).
- § 87(2)(b) has no prior CCRB complaints (Board Review 13).
- § 87(2)(b) has no prior CCRB complaints (Board Review 14).
- Detective McFarland has been a member of service for seven years and has been a subject in two CCRB complaints and 4 allegations (Board Review 7).
  - 201310250 involves an allegation of discourtesy. The case was closed as complainant uncooperative.
  - 200504269 involves allegations of force, abuse of authority, and discourtesy. The case was closed as complainant uncooperative.

**Mediation, Civil and Criminal Histories**

- This complaint was not suitable for mediation.
- As of July 9, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this complaint (Board Review 10).
- § 87(2)(b)

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Squad No.: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date